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Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, submitted pursuant to Human Rights Council resolutions 17/4 and 26/22.

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Summary

In the present report, the Working Group on the issue of human rights and transnational corporations and other business enterprises discusses the issue of measuring the implementation of the Guiding Principles on Business and Human Rights of the United Nations. Businesses may have an adverse impact on every human right, in any country in the world. Yet there is no comprehensive data on the nature, scale or extent of that impact. Likewise, there is no comprehensive data on the efforts made by States and companies to prevent and remedy business-related harm. The Working Group has thus identified measurement as a priority for its mandate.

In the present report, the Working Group has assessed existing measurement initiatives, including not only those specific to measuring the implementation of the Guiding Principles, but also those relating more broadly to business and human rights, social impacts and sustainability. It has highlighted gaps in coverage and some considerations to bear in mind when moving forward with the issue, and identified key entry points that could greatly strengthen the incentives and impetus for the implementation of the Guiding Principles. The report ends with concrete recommendations to States, business enterprises, international organizations, civil society and academics, national human rights institutions and the human rights system of the United Nations.

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I. Introduction

A. Need for measuring progress on the Guiding Principles on Business and Human Rights

1. In the present report, the Working Group on the issue of human rights and transnational corporations and other business enterprises has focussed on the issue of measuring the uptake and implementation of the Guiding Principles on Business and Human Rights.

2. Since the unanimous endorsement of the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework by the Human Rights Council in its resolution 17/4, in 2011, the Guiding Principles have become the authoritative global reference for preventing and addressing adverse impacts on human rights arising from business-related activity. The Working Group, established in the same resolution, is mandated to promote and contribute to the uptake and implementation of the Guiding Principles. The Guiding Principles are a blueprint to manage the impacts of business operations on human rights. By "managing", the Working Group means the efforts by both States and companies to protect against and remedy the adverse impacts of business operations and to respect human rights. Those efforts must be measured and tracked.

3. The Working Group has identified measurement as a priority for a number of reasons. First, significant challenges and opportunities arise from attempting to measure the uptake and implementation of the Guiding Principles. Information on State protection against human rights abuses by companies, as well as the scale and nature of those abuses, is not systematically gathered or reported. This is understandable given the sheer novelty of the business and human rights agenda. Almost no State knows whether its laws, regulations and policies are fully in line with the Guiding Principles, and the same can be said for companies. That makes it difficult to assess whether the efforts by States, businesses, civil society and, indeed, the Working Group to diffuse and implement the Guiding Principles are having a positive effect.

4. Second, not only does the international community lack comprehensive data on the implementation of the Guiding Principles, but it also lacks consensus of what such data should comprise. A number of initiatives and tools are available to measure business performance or the State environment in which business takes place. Since the endorsement of the Guiding Principles, recent initiatives have been undertaken specifically to measure the extent to which States and businesses carry out their respective duties and responsibilities as elaborated in the Guiding Principles, and the Working Group commends such efforts. Taken together, those initiatives demonstrate both the wealth of available information and that such information has not been unified or collated in a manner that enables a clear assessment of the implementation of the Guiding Principles. The task is now to bring together those initiatives and clarify what information is necessary to determine whether the Guiding Principles are implemented in practice. In the same way that the international community has converged around the Guiding Principles, it is time to seek convergence towards measuring whether they are being realized.

5. The Working Group wishes to clarify at the outset that the need for convergence in measurement does not mean that measurement must happen in the same way in all

contexts, or that countries' and companies' performance should be assessed in a same manner or with the same outcome. Measurement must take into account the context of any given State and its available resources, as well as the size, purpose, location and sector of a given company. However, just as the Guiding Principles apply to every country, context and company, so can the means by which the international community determines whether they are being successfully implemented.

6. Convergence towards such a determination is crucial for the prevention and remediation of human rights abuses by business enterprises, which are the ultimate goal of the Guiding Principles and, indeed, the Working Group. Recent experience has shown that measurement efforts can help to clarify commitments and coordinate action across stakeholder groups. The Millennium Development Goals, for example, galvanized States and donors to coordinate their poverty-reduction efforts around concrete targets and indicators. Current negotiations around the sustainable development goals reflect a similar coordinated effort to focus diverse efforts on unified targets. The Working Group believes that convergence towards measuring the implementation of the Guiding Principles will help States and companies to embed the Guiding Principles in concrete action.

7. In addition to helping to operationalize and clarify commitments, measurement also serves as an internal management tool. The Guiding Principles require that companies take steps to know and show that they respect human rights. Guiding principle 20 specifically calls upon business enterprises to track the effectiveness of their response in order to verify whether adverse impacts on human rights are being addressed. The Working Group argues that that is relevant to States as well. An internal tracking system helps Governments and companies to identify gaps in performance and accountability and to drive continuous improvement.

8. For both companies and States, gathering data on a particular activity or human rights issue, and making that information available either internally or externally, also foster accountability and help with the identification, sharing and diffusion of good practices. For all actors, a rigorous evidence base leads to good policymaking.

9. Recognizing the value of tracking progress and identifying and sharing practices, the Human Rights Council encouraged the Working Group to identify and promote best practices in the national implementation of the Guiding Principles, and to reflect its findings, including in global progress on the implementation of the Guiding Principles, in its annual reports (resolution 26/22, para. 6). In the same resolution, the Human Rights Council welcomed the efforts of the Working Group to build a database of national action plans on business and human rights (which are available in the Working Group's section of the United Nations Human Rights website)[1] and other relevant data on global progress in the implementation of the Guiding Principles. Tracking progress in implementing the Guiding Principles will also be a priority theme at the fourth Forum on Business and Human Rights, in November 2015,[2] in response to calls made at the previous Forum to increase focus on measurement (see A/HRC/FBHR/2014/3).

[1] www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx.

[2] www.ohchr.org/EN/Issues/Business/Forum/Pages/2015ForumBHR.aspx.

B. Aims and outline of the report

10. The present report has three objectives: first, to describe existing initiatives to measure the implementation of the Guiding Principles; second, to identify gaps where further initiatives are needed and positive elements and endeavours that need to be supported and reinforced; and third, to galvanize action towards converging on a coherent framework for measuring the implementation of the Guiding Principles.

11. Section II takes stock of the range of measuring and tracking initiatives in the field of business and human rights in a broad sense. The report does not intend to cover the entire spectrum of initiatives or to provide a comprehensive mapping of current practice. Rather, it seeks to identify approaches that may provide data, methodologies or partners for future initiatives.

12. Section III offers observations on existing initiatives and highlights elements of the Guiding Principles that are not covered by current measurement efforts. The purpose of that section is to discuss some of the limitations and challenges of measuring such a complex issue as business and human rights, and lessons learned from current activities.

13. Section IV describes actions that could greatly strengthen the existing state of play on measuring the implementation of the Guiding Principles. It is acknowledged that no measurement attempt will suit all countries, companies or purposes, but that convergence and consensus around some key entry points will exponentially assist in the dissemination and uptake of the Guiding Principles. The Working Group ends by making concrete recommendations to States, business enterprises, international organizations, civil society and academics, national human rights institutions and the human rights system of the United Nations on how to move that issue forward.

14. The present report is also based on a consultation meeting of experts that the Working Group held in May 2015. The Working Group would like to thank the participants in that consultation, and other contributors, for the high quality of their inputs.

II. Existing initiatives to measure the implementation of the Guiding Principles on Business and Human Rights

15. In the present section, the Working Group considers existing initiatives to measure or provide data on the implementation of the Guiding Principles. While some initiatives make explicit reference to measuring or reporting on the Guiding Principles, many have not been designed with that specific purpose in mind and are intended to describe the environments in which companies operate or to track the performance of individual enterprises.

16. Initiatives are arranged under the three pillars of the Guiding Principles (the duty of the State to protect against human rights abuses by business enterprises, the corporate responsibility to respect human rights and the need for greater access by victims to effective remedy (A/HRC/17/31, para. 6)), to enable the Working Group to assess the coverage of and gaps in data spanning across the pillars.

17. The purpose of section II is not to identify comprehensively every measurement initiative or to review the pros and cons of each approach

individually.[3] The initiatives collected here represent a range of methodologies, from measuring, tracking and reporting to ranking and benchmarking. The Working Group argues that all those efforts provide information and approaches that may be helpful in measuring the implementation of the Guiding Principles.

A. Measuring pillar 1: duty of the State to protect against human rights abuses by business enterprises

18. The Working Group has identified four types of initiatives that aim to measure State performance on managing the environments in which businesses operate.

1. Questionnaires for and surveys of States

19. Since the endorsement of the Guiding Principles in 2011, a number of initiatives have been taken specifically to seek to measure their implementation by States. Data gathered rely to a large extent on Governments' responses to questionnaires or surveys.

20. The surveys of States that the Working Group carried out in 2012, 2013 and 2014 have helped to paint a picture of the overall commitments and steps taken to implement the Guiding Principles in the States that responded.[4] Earlier in 2015, the Working Group sent a survey questionnaire to States on their roles and responsibilities as economic actors, including with regard to business enterprises owned, operated or managed by the State. It hopes that a large number of States will respond to that more specific questionnaire, thereby allowing the Working Group to identify progress in implementation. Similarly, the Government Action Platform,[5] managed by the Business and Human Rights Resource Centre, contains the results of a survey of the implementation by Governments of pillars 1 and 3 of the Guiding Principles.

21. In the field of labour rights, the International Labour Organization (ILO) has been conducting since 1985 surveys on the state of policy and practice with respect to various subject areas relating to its instruments, such as wages and occupational safety and health.[6]

2. State-driven measurement initiatives

22. States have also started measuring their implementation of the Guiding Principles. National action plans on business and human rights are perhaps the most well-known, and most promising, of those efforts. In calling for the adoption of such national action plans, the Working Group emphasized that Governments should adopt an evidence-based approach, gathering data and identifying where laws should be updated to align with the Guiding Principles (A/69/263, para 20). One initiative towards systematizing that process, the National Baseline Assessment

[3] See for an example of such mapping the Measuring business and human rights project, available from http://business-humanrights.org/en/measuring-business-human-rights-0 (accessed 25 July 2015).

[4] www.ohchr.org/EN/Issues/Business/Pages/ImplementationGP.aspx.

[5] http://business-humanrights.org/en/government-action-platform.

[6] www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/general-surveys/lang--en/index.htm.

Template,[7] developed by the Danish Institute for Human Rights and the International Corporate Accountability Roundtable, provides a detailed framework for carrying out that task. At the time of reporting, more than 25 national action plan processes were under way, in all regions of the world and in countries of all economic levels.[2]

3. State data on human rights implementation

23. States must report to treaty bodies on the implementation of the international human rights treaties that they have ratified.[8] States' reports to treaty bodies and concluding observations by those bodies are likely to include data relevant to the regulatory framework in place and to key human rights issues in the country, including those linked to business-related harm.[9] In addition, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has developed a methodology for human rights indicators to help States to develop their own indicators and gather data on human rights, and help treaty bodies to ask questions to States as part of the reporting process on treaty implementation. Some of the indicators developed are relevant to business enterprises, such as those on the rights to work, social security, health, fair trial, water and sanitation.[10]

4. State performance indices

24. Institutions and civil society organizations measure performance in a given State or compare performance across States in a wide range of areas, of which many relate to the rule of law and governance, including industry-specific governance.[11] Others relate to health and safety,[12] the environment[13] or business context.[14] In the field of human rights, the CIRI Human Rights database and the Political Terror Scale rate countries on the basis of a wide range of human rights practices, while the Global Rights Index of the International Trade Union Confederation rates countries on the basis of the level of labour rights protection.[15] New methodologies, such as the Index of Social and Economic Rights Fulfilment, attempt to measure the

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[7] Danish Institute for Human Rights and International Corporate Accountability Roundtable, *National Action Plans on Business and Human Rights: Toolkit Component 1: The National Baseline Assessment (NBA) Template*.

[8] www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx.

[9] Available information will depend on the status of ratification of treaties and reporting by the State party.

[10] Available from www.ohchr.org/EN/Issues/Indicators/Pages/HRIndicatorsIndex.aspx. That framework is applied by national Governments, national human rights institutions and non-governmental organizations worldwide.

[11] See, for example, http://info.worldbank.org/governance/wgi/index.aspx#home, http://worldjusticeproject.org/rule-of-law-index, www.transparency.org/cpi2014 and www.resourcegovernance.org/rgi.

[12] For example the Health and Safety Risk Index, available from www.maplecroft.com/about/news/global_health_hot_spots_jan_10.html (accessed 2 July 2015).

[13] See, for example, the Environmental Performance Index, available from http://epi.yale.edu/epi, and the new Environmental Democracy Index, available from www.wri.org/our-work/project/access-initiative-tai/commissions#project-tabs.

[14] www.doingbusiness.org/rankings.

[15] www.humanrightsdata.com, www.politicalterrorscale.org and www.ituc-csi.org/ituc-global-rights-index ıames.

performance of countries on the fulfilment of economic and social rights obligations.[16]

25. While the data produced by those initiatives do not always directly relate to the State's duty to protect against human rights abuses by business enterprises, they provide information on the context in which businesses operate, the structures that may encourage or prevent business abuses, and the space available to civil society and potentially affected groups and individuals to raise human rights concerns.

B. Measuring pillar 2: corporate responsibility to respect human rights

26. Tracking, assessing and reporting on the impacts of business, both from within companies and outside of them, is well established, and a number of approaches have been developed that may contribute to measuring the extent to which companies are assuming their responsibility to respect human rights.

1. Surveys of business enterprises

27. Since the endorsement of the Guiding Principles, a number of initiatives have used surveys to measure the level of awareness of, commitment to and implementation of the Guiding Principles among companies.

28. The Working Group conducted surveys of businesses in 2012 and 2013, in partnership with the Global Business Initiative on Human Rights, the International Organization of Employers, and the International Chamber of Commerce (A/HRC/26/25/Add.1). In 2014, the Economist Intelligence Unit conducted a global online survey, reflecting the views of 853 senior corporate executives.[17] Other notable examples include the annual surveys by the Global Compact Initiative on the implementation of its principles by signatories to the Compact, including human rights,[18] and a survey from the World Business Council for Sustainable Development.[19]

2. Company management tools

29. Companies apply a range of methodologies to track their performance and impacts, including social impacts. Some use external tools, while others carry out their own internal assessments or supplier audits. Many efforts are focused on improving the management of supply chains, particularly in the areas of labour, health and safety, and sustainability.[20]

30. Recent years have seen a consolidation in those approaches, with companies increasingly collaborating to manage their supply chains and devise unified

[16] www.serfindex.org.

[17] Available from www.economistinsights.com/business-strategy/analysis/road-principles-practice.

[18] See United Nations Global Compact, *Global Corporate Sustainability Report 2013*, available from www.unglobalcompact.org/docs/about_the_gc/Global_Corporate_Sustainability_Report2013.pdf.

[19] World Business Council for Sustainable Development, Scaling up Action on Human Rights: Operationalizing the UN Guiding Principles for Business and Human Rights.

[20] See, for example, United Nations Global Compact, *Global Corporate Sustainability Report 2013*, p. 10, available from www.unglobalcompact.org/docs/about_the_gc/Global_Corporate_Sustainability_Report2013.pdf.

standards for inspections. The Global Social Compliance Programme, for example, aims to harmonize responsible supply chain efforts across dozens of multinational brands.[21]

31. A number of initiatives support companies in comparing their policies and practices against international human rights norms, including the Human Rights Compliance Assessment of the Danish Institute of Human Rights.[22] An increasing number of companies have included human rights in their policies to regulate their own operations and those of their supply chains. Others are working directly with suppliers to build their capacity and develop metrics to measure and improve their social performance.[23] The Working Group hopes that companies will increasingly measure and track respect for human rights across their own operations and those of their suppliers.[24]

3. Corporate reporting and assurance

32. In addition to tracking their own performance, many companies produce public reports summarizing their efforts and results, increasingly within a framework of sustainability reporting. In recent years, a growing number of enterprises have begun to report their impacts publicly with tools and frameworks that explicitly include the Guiding Principles. The most commonly used framework is the Sustainability Reporting Guidelines of the Global Reporting Initiative, currently used by 6,000 companies. The Initiative harmonized its reporting guidelines in 2012 (the fourth generation guidelines, or "G4") to include reporting on elements that are relevant to the Guiding Principles. Earlier in 2015, the Human Rights Reporting and Assurance Framework Initiative[25] launched the UN Guiding Principles Reporting Framework, which provide comprehensive guidance to companies in reporting on all aspects of corporate responsibility to respect human rights.

33. The interest in and requirements relating to public human rights reporting are expanding. A number of States and international institutions have strengthened their legal requirements for companies to report publicly on their operations and impacts.[26] In addition, United Nations initiatives relating to corporate reporting

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[21] www.gscpnet.com/.

[22] The Human Rights Compliance Assessment was recently released in an open platform to encourage wider multi-stakeholder discussion on indicators for business, and is available from http://business-humanrights.org/en/platform-for-human-rights-indicators-for-business-hrib. See also www.globalcompactselfassessment.org.

[23] See Shift, *From Audit to Innovation: Advancing Human Rights in Global Supply Chains* (New York, 2013), available from http://shiftproject.org/sites/default/files/From%20Audit%20to%20Innovation-Advancing%20Human%20Rights%20in%20Global%20Supply%20Chains_0.pdf.

[24] See, for example, Unilever's first *Human Rights Report* on its Responsible Sourcing Policy implementation and tracking (www.unilever.com).

[25] www.shiftproject.org/project/human-rights-reporting-and-assurance-frameworks-initiative-rafi.

[26] Those requirements include conflict minerals reporting under the Dodd-Frank Wall Street Reform and Consumer Protection Act of the United States of America, the corporate social responsibility reporting requirements of the European Commission and the California Transparency in Supply Chains Act of 2010.

include human rights-related impacts, namely the Global Compact Initiative and the Women's Empowerment Principles.[27]

34. Investors are also increasingly supportive of companies reporting on impacts on human rights. In that respect, the Working Group is pleased to note the public support by a large group of investors (as of July 2015, 82 investors representing $4.8 trillion of assets under management) to the UN Guiding Principles Reporting Framework. In their statement to welcome the Framework, those investors noted that they saw it as an essential tool that enabled investors to review companies' understanding and management of human rights risks.[28] Companies have also begun to think more broadly about impacts and some have developed environmental profit and loss accounts in which they record their environmental impacts in dollars.[29] A few are now experimenting with similar models to measure social profit and loss.[30]

35. The Working Group strongly encourages the trend towards reporting actual impacts, including those on human rights, and the development of related indicators. The recently launched UN Guiding Principles Reporting Framework and its cross-referencing to the Global Reporting Initiative's important work in developing human rights-related indicators have made a vital contribution to defining the elements of comprehensive human rights reporting. Uncertainty and debate continue, however, regarding how that reporting should be verified. The Human Rights Reporting and Assurance Framework Initiative is working towards the development of practical guidance for assurance practitioners on human rights reporting in line with the Guiding Principles.

4. Investor initiatives

36. Investors are also interested in the social performance of companies and, as indicated in the previous section, some explicitly support reporting on impacts on human rights.

37. Environmental, social and governance investors control funds dedicated to companies that have committed to managing their social and environmental footprint. Notable examples are the Dow Jones Sustainability Indices and the FTSE4Good Index Series. Those indices collect huge amounts of data on thousands of companies.

38. Many environmental, social and governance initiatives, however, include just one or two indicators relating to human rights and measure the social aspect only through awareness or commitment expressed in policies or public statements by companies.[31] As such, those indices are limited in their ability to identify the human rights performance of businesses in practice. Nonetheless, those efforts and other

[27] www.weprincip'es.org.

[28] See www.ungpreporting.org/early-adopters/investor-statement/#sthash.O4aWfw1Y.dpuf.

[29] See, for example, http://about.puma.com/en/sustainability/environment/environmental-profit-and-loss-account or www.kering.com/en/sustainability/whatisepl.

[30] See, for example, World Business Council for Sustainable Development, *Towards a Social Capital Protocol: A Call for Collaboration* (2015), available from http://www.wbcsd.org/Pages/eNews/eNewsDetails.aspx?ID=16508&NoSearchContextKey=true, and http://trueprice.org.

[31] See, for example, the Corporate Sustainability Assessment by RobecoSAM, the results of which serve as the basis for the Dow Jones Sustainability Indices of 2015, available from www.robecosam.com. However, relevant indicators are framed under stakeholder engagement and labour practices.

forms of socially responsible investment share many of the same objectives as the Guiding Principles. The growing interest from investors in consolidating environmental, social and governance data[32] and including human rights criteria shows the potential of that field to encourage better human rights reporting and performance. That potential can be achieved only if investors are encouraged to introduce more robust human rights measurement.

5. Ranking and rating by external organizations

39. Beyond the efforts that companies make to track and report their own performance, a number of external initiatives also track and rank company performance on social and, increasingly, human rights criteria. Oxfam's Behind the Brands,[33] for example, ranks the policies of the largest food and beverage companies with respect to seven human rights-related themes, such as rights and access to land and the sustainable use of it and women's rights. The Access to Medicine Index,[34] which is aligned with human rights standards, particularly the right to health, ranks pharmaceutical companies' efforts to improve access to medicine in developing countries. Other recent examples include Ranking Digital Rights[35] and the Corporate Human Rights Benchmark, which aims to create a publicly accessible ranking of global companies' human rights approach and performance based on the Guiding Principles and other sector-specific guidance.[36]

6. Assessment and reporting by affected individuals and groups

40. Alongside those quantitative initiatives, a number of civil society networks, such as the International Network for Economic, Social and Cultural Rights and the International Federation for Human Rights, and non-governmental organizations, such as Oxfam, assist communities, workers and whistle-blowers in assessing and reporting human rights abuses by companies.[37] Community-based human rights impact assessments allow affected communities to drive the process of information gathering and participation, framed by their own understanding of how their rights are affected by businesses.

41. Those efforts will be critical in any attempt to systematically monitor the implementation of the Guiding Principles by businesses. They provide an important complement to businesses' own tracking efforts, particularly on the elements of due diligence and consultation, and may serve to highlight failings in State protection against human rights abuses by business enterprises. Because they focus on communities and human right defenders, those methodologies may also be useful

[32] See, for example, www.world-exchanges.org/insight/reports/wfe-launches-sustainability-working-group.

[33] www.behindthebrands.org/.

[34] www.accesstomedicineindex.org/.

[35] https://rankingdigitalrights.org.

[36] http://business-humanrights.org/en/corporate-human-rights-benchmark.

[37] See in particular the Getting it Right tool originally developed by Rights and Democracy and used by Oxfam and the International Federation for Human Rights, available from http://hria.equalit.ie/en/. See also http://policy-practice.oxfamamerica.org/work/private-sector-engagement/community-based-human-rights-impact-assessment-initiative, www.fidh.org/article7502 and the International Network for Economic, Social and Cultural Rights checklist, available from http://business-humanrights.org/en/checklist-documenting-corporate-human-rights-impacts.

when thinking about incorporating participatory indicators in broader measurement methodologies.

C. Measuring pillar 3: access to remedy

42. A number of organizations have attempted to measure the strength and independence of judicial remedies. More recently, attempts have been made to capture the effectiveness of non-judicial remedies.

1. Judicial remedies

43. As in pillar 1, a number of global databases and rankings on the rule of law, the independence of the judiciary and perceptions of corruption give a broad indication as to the likelihood of obtaining redress through courts in a given country (see sect. II. A). Data on effective remedy are usually available at the national level from administrative data, court records, national human rights institutions and other quasi-judicial and informal mechanisms.

44. At the international level, reports from States and concluding observations by human rights treaty bodies may also offer relevant information, as does the database of individual complaints received by the same treaty bodies.[38] Similarly, the communications reports of special procedures mandate holders contain information on business-related harm.[39]

45. Specifically relevant to pillar 3, the OHCHR Accountability and Remedy Project has identified a series of legal and practical barriers for victims to access judicial remedy.[40] The growing flow of information on those barriers and recommendations for removing them may contribute to a framework for measuring State remedy mechanisms. Indicators on access to judicial remedies for business-related harm could also build on indicators already developed by OHCHR in relation to access to legal aid, due process of law and the role of quasi-judicial (e.g. national human rights institutions) and non-judicial (executive or administrative) actors.[41]

2. Non-judicial remedies

46. The UN Guiding Principles Reporting Framework prompts companies to report on the processes and outcomes of their non-judicial remedy mechanisms. Initiatives more directly relevant to pillars 1 and 2, such as the Working Group's surveys of States, also contain indicators and data that may be relevant to measuring the extent to which pillar 3 is being implemented.

47. Another way to measure access to remedy is by considering individual non-judicial grievance mechanisms with global application. The national contact points of the Organization for Economic Cooperation and Development (OECD), for example, allow complaints to be lodged against multinational enterprises headquartered in OECD countries. Unfortunately, there is no single database of all complaints lodged with national contact points, and the three existing databases do

[38] http://juris.ohchr.org.

[39] www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx.

[40] www.ohchr.org/EN/Issues/Business/Pages/OHCHRstudyondomesticlawremedies.aspx.

[41] www.ohchr.org/EN/Issues/Indicators/Pages/HRIndicatorsIndex.aspx.

not offer a comprehensive picture of complaints. Two recent studies have nonetheless attempted to assess the overall picture of the effectiveness of national contact points.[42] Similarly, complaints made to and handled by the International Finance Corporation Compliance Advisor Ombudsman can be tracked,[43] and the International Labour Organization (ILO) maintains a database on cases related to freedom of association cases.[44]

3. Tracking human rights claims

48. For individual cases, a number of databases also exist. The Company and Government Action Platforms,[45] managed by the Business and Human Rights Resource Centre, offer information on both judicial and non-judicial grievance mechanisms. Based to a large extent on information available on the Centre's website, the Corporations and Human Rights Database project[46] has tracked over 1,400 cases of human rights abuses by business enterprises between 2000 and 2014, looking at the remedy avenues pursued and the outcomes achieved. A number of civil society organizations, including the International Federation for Human Rights, have collated cases and provided guidance for companies and States for redressing harms.[47]

III. Gaps in existing initiatives and considerations for future measuring initiatives

49. The previous section described the efforts currently under way to measure State and company implementation of the Guiding Principles. In the present section, the Working Group flag gaps and essential lessons that should bear upon new initiatives to measure the uptake and implementation of the Guiding Principles.

A. Gaps in data coverage: measuring what matters

50. Available information and existing measurement initiatives have significant gaps. First, with respect to the coverage of the Guiding Principles, most measurement initiatives are geared towards pillar 2, followed by pillar 1.

[42] John G. Ruggie and Tamaryn Nelson, "Human rights and the OECD guidelines for multinational enterprises: Normative innovations and implementation challenges", *Corporate Social Responsibility Initiative*, Working Paper No. 66. Cambridge, MA: John F. Kennedy School of Government, Harvard University (2015); and OECD Watch, "Remedy remains rare: An analysis of 15 years of NCP cases and their contribution to improve access to remedy for victims of corporate misconduct" (2015).

[43] www.cao-ombudsman.org/cases/.

[44] www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1:0::NO.

[45] http://business-humanrights.org/en/getting-started-0/government-action-platform/company-action-platform and http://business-humanrights.org/en/government-action-platform.

[46] www.chrdproject.com.

[47] www.fidh.org/International-Federation-for-Human-Rights/globalisation-human-rights/business-and-human-rights/Updated-version-Corporate-8258. See also Gwynne Skinner, Robert McCorquodale and Olivier De Schutter, "The third pillar: Access to judicial remedies for human rights violations by transnational business" (December 2013), available from www.corporatejustice.org/IMG/pdf/the_third_pillar_-access_to_judicial_remedies_for_human_rights_violation.-1-2.pdf.

Information regarding the implementation of pillar 3 is relatively scarce. This is noteworthy in its oddness. While it is difficult, if not impossible, to measure how much harm has been prevented by States or companies' actions, it should be comparatively easier to measure how harm has been remedied when it occurred. Arguably, pillar 3 has a much more finite and measurable data set than pillars 1 and 2, and yet specific data on pillar 3 are unavailable. Moreover, the generic data relating to State-based remedies are not collated in a way that makes them accessible and enables the identification of business-related abuses.

51. Second, with regard to content, labour issues, health and safety and environmental impacts are each covered by a number of initiatives for both States and companies. Impacts on human rights are treated in a more generic fashion and, with the exception of rights in the workplace and discrimination relating to those, specific human rights such as land-related rights or freedom of expression are not adequately or comprehensively addressed. Likewise, most States and companies initiatives pay less attention to impacts on affected communities (such as indigenous and minority communities) and on human rights defenders.[48] In addition, most available information concerns large, multinational companies, with little data and guidance available on small- and medium-size enterprises.

52. Third, a lot of initiatives relate to human rights commitments by companies or States, and to some extent about processes, but fewer to the actual impacts on the prevention or redress of human rights abuses. That point is explored further below.

53. To some extent, that state of affairs reflects the areas where practices are strongest, as measurement efforts cover well-established issues on which information is available. The collective effect of those efforts, however, may de-prioritize themes or challenges that are more difficult to measure. The Working Group stresses that what must be measured is what is meaningful to know, not what is easiest to measure or suits existing measurement tools and resources.

54. Measuring what is truly meaningful is not an easy task. Not all parts of the Guiding Principles lend themselves to easy translation into clear, straightforward indicators. Businesses may have an adverse impact on every human right, in any country in the world. Any attempt to distil those impacts into unified approaches will, by definition, collapse some of their nuance and complexity.

55. Furthermore, the process of measurement is not value-neutral. Deciding what and how to measure necessarily puts focus and value on some areas while skipping others. Care must be taken to base such choices on international human rights principles, placing human beings at the centre of the measurement tools.

56. That problem is not particular to the Guiding Principles or to the field of business and human rights. For instance, the process of devising indicators for the Millennium Development Goals, and the overreliance on existing socioeconomic

[48] See, for example, key findings from the Action Platforms, available from http://business-humanrights.org/sites/default/files/Action_Platform_Final.pdf.

data, highlighted choices that fell short of human rights standards in many ways.[49] Commentators have noted the distorting effects of the choice of indicators for the Millennium Development Goals.[50]

57. A similar distortion was apparent in the World Bank's ease of doing business index. An earlier version included indicators that gave countries higher scores for limiting worker protections.[51] While some might argue that restricting mass retrenchments or promoting labour unions might handicap businesses in the short term, in the view of the Working Group this inhibits sustainable, long-term, business operations, not to mention that it contradicts human rights law. The methodology has now aligned with ILO conventions, and the Doing Business 2015 report no longer presents rankings of economies on the labour regulation indicators.[52]

B. Need for an inclusive and legitimate process

58. Because measurement is about choices, a process to develop measuring tools, tracking systems and indicators for the Guiding Principles should be owned by a large alliance of stakeholders, taking into account views across regions, sectors and actors (from home and host Governments, State-owned companies and listed and private companies to civil society organizations and communities), thereby ensuring the legitimacy of the process. A number of the initiatives mentioned in section II were built around a multi-stakeholder, consensus-seeking process to ensure the legitimacy of their outcomes.

59. While recognizing that the development of measurement tools and indicators must include specialized expertise to ensure technical rigour, the Working Group emphasizes that such a process should also strive to include individuals and communities (potentially or actually) harmed by business operations, as well as organizations representing their interests. If the process of developing measurement tools is limited to a small number of experts or institutions, it runs the risk of replicating existing power relationships in which potential victims remain voiceless and powerless.

[49] See, for example, the controversial exclusion of security of tenure from indicator 7.10 (proportion of the urban population living in slums) relating to target 7.D of achieving, by 2020, a significant improvement in the lives of at least 100 million slum dwellers. While that particular target has already been reached, the question remains as to whether that result reflects the real situation of slums and informal settlements worldwide (A/HRC/22/46, para. 10). See also OHCHR, Official Statistics and Human Rights, available from www.ohchr.org/Documents/Issues/MDGs/Post2015/HRAndStatistics.pdf.

[50] Sakiko Fukuda-Parr, Alicia Ely Yamin and Joshua Greenstein, "The power of numbers: A critical review of Millennium Development Goal targets for human development and human rights", Journal of Human Development and Capabilities: A Multi-Disciplinary Journal for People-Centred Development, 17 April 2014.

[51] See criticism of the index in International Trade Union Confederation, *ITUC Global Rights Index: The World's Worst Countries for Workers, 2014*, p. 9.

[52] www.doingbusiness.org/methodology/labor-market-regulation.

C. Measuring commitments versus impacts

60. Measuring the implementation of the Guiding Principles effectively means gathering data at three levels, namely commitment, processes, and outcome or impact, as described below:

(a) Commitments refer to policies that aim to prevent human rights abuses by companies. With respect to States, that includes legal instruments, laws, regulations and institutional mechanisms to promote and protect human rights. For instance, does the State have an explicit statement or policy committing to the Guiding Principles or to its duty to protect against corporate harm? In the case of businesses, that means company policies that state the company's respect for human rights or commitment to the Guiding Principles, such as a code of conduct that prohibits child labour in the company's operations and suppliers;

(b) Processes refer to efforts taken to embed the Guiding Principles in the structure and systems of the State or company, for example providing an adequate budget to the judiciary to investigate complaints or training employees;

(c) Outcome or impact refers to the effectiveness of those processes and systems in preventing business-related abuses. For example, what is the incidence of occupational accidents in a given country or industry? Or how many cases of child labour were found in the previous year?

61. Such categorization reflects the general categorization of information on States' performance with respect to human rights, namely that of structures and commitments, processes and outcomes.[53] The Guiding Principles readily accommodate that categorization. With respect to companies, the Working Group suggests it is best to express "outcomes" in terms of "impacts" to reflect the language of the Guiding Principles.[54]

62. All three of those forms of data are crucial to measuring the implementation of the Guiding Principles. That said, while existing initiatives reveal, relatively speaking, quite a bit about commitment, and some about processes, they say little about outcomes and impacts. It is not clear whether any of the commitments and processes on which data are available has improved company practices or has decreased the number of human rights abuses by business enterprises. Existing efforts have understandably focused on the commitment and process elements, given that the greater availability of data thereon makes them easier to quantify. Nevertheless, in order to truly measure the implementation of Guiding Principles, one must ensure that the impact element, especially for individuals and groups affected by business-related harm, is not lost.

63. Thus, there needs to be more nuanced methodologies and data gathering to track actual outcomes and impacts. In that regard, an effective company grievance

[53] See OHCHR, *Human Rights Indicators: A Guide to Measurement and Implementation* (New York and Geneva, 2012), pp. 33-37, available from http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf.

[54] For the purposes of the present report, the Working Group uses those terms, with the caveat that each of those categories is fluid, that another terminology may in future better express the distinction between those terms, and that those terms may in turn be made more specific to serve the needs of a specific measuring tool and its end users (for example, some methodologies make the difference between measuring outputs and outcomes for companies).

mechanism through which those directly affected may raise concerns about how they are or may be harmed could be, for example, a good indicator of potential and recurring human rights impact.[55]

D. Tracking human rights claims

64. Capturing widespread, systematic information on human rights abuses by business enterprises is a difficult task. Most of the information that reaches the international community regarding such abuses comes from cases reported in the media or grievances filed in domestic or international remedy mechanisms. Care must be taken to recognize selection biases in both reporting claims and in drawing inferences from them.

65. It is well known that victims are less likely to report claims in repressive contexts. Therefore, a falling number of complaints each year, to State or company remedy mechanisms, may not indicate that a State is improving its performance in protecting against business-related abuses, but rather that it is simply becoming more repressive. The same goes for company remedy mechanisms. This general point also applies to media reports. If a company has not been singled out for a journalistic investigation, that does not necessarily mean it is better than its peers at performing due diligence. There might be several, context-specific reasons behind the media covering some types of claims or companies more than others.

66. Thus, inference should be made with caution, and account for regional characteristics or temporal trends that may be associated with patterns in claim-making. Even with such limitations, a database that provides information on what types of claims are made, when they are made and when they are addressed (through remedy) is necessary to understand whether policies and processes laid down in pillars 1 and 2 are effective. Data collection efforts should work to triangulate between third-party (non-governmental organization and private company) reports, other non-judicial grievance mechanisms, such as the national contact points of the Organization for Economic Cooperation and Development, and local news sources.

E. Balancing qualitative and quantitative approaches

67. The initiatives described in section II demonstrate different approaches to measuring company and State practice in preventing human rights abuses by the private sector. One approach, which is the one taken by ranking indices and investors, is primarily quantitative. The other approach, seen in the pillar-3 initiatives and assessments by affected communities, is more qualitative. It is important to use both types of information and not to let one approach overshadow the other.

68. The Guiding Principles explicitly mention those two approaches when discussing companies' tracking systems. Principle 20 provides that tracking should: (a) be based on appropriate qualitative and quantitative indicators; and (b) draw on feedback from both internal and external sources, including affected stakeholders.

[55] See OHCHR, *The corporate responsibility to respect human rights: An Interpretive Guide* (New York and Geneva, 2012), p. 34, available from http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf.

The Interpretive Guide to the Corporate Responsibility to Respect Human Rights contains the following note:

> There can be advantages to quantitative indicators, given the precision they offer and the ease with which they can be integrated into, or correlated with, indicators used in other areas of the business. However, since respect for human rights is about the dignity of people, qualitative indicators — that include, as far as possible, the perspectives of affected stakeholder groups — will always be important. In some situations, qualitative indicators will be important for the accurate interpretation of quantitative ones: for instance, assessing whether a reduction in reports of worker safety breaches reflects an actual reduction in such incidents, a lack of faith in the reporting system, or intimidation that prevents reporting.[56]

69. Recent initiatives, such as the UN Guiding Principles Reporting Framework, leave space for qualitative assessment, while others, such as the National Baseline Assessment Template, focus essentially on qualitative indicators. Others still prioritize data stemming from organizations monitoring corporate impacts and perspectives from affected individuals and communities.[57] In that regard, initiatives to assess corporate impacts from the perspective of the affected communities are relevant.[58] It must also be stressed that it is particularly important that potential victims participate in measurement exercises on the effectiveness of grievance mechanisms, to ensure the legitimacy of the mechanism itself.[59]

IV. Measuring the implementation of the Guiding Principles on Business and Human Rights: towards convergence

70. The present report has highlighted the ongoing challenge of measuring the implementation of the Guiding Principles by States and companies. To conclude, the Working Group would like to highlight three strategic areas where it believes that further attention will result in exponential improvements in the measurement of the implementation of the Guiding Principles and, ultimately, the prevention of human rights abuses by business enterprises.

A. Measuring State implementation through national action plans on business and human rights

71. National action plans on business and human rights provide a useful avenue for measuring State implementation of the Guiding Principles. The National Baseline Assessment Template, in which States assess their current level of implementation of the Guiding Principles, is a critical tool for adapting indicators to

[56] Ibid., p. 54, question 51.

[57] See, for example, the Corporations and Human Rights Database, available from http://chrdproject.com/index.html.

[58] See, for example, http://policy-practice.oxfamamerica.org/work/private-sector-engagement/community-based-human-rights-impact-assessment-initiative.

[59] See, for example, Caroline Rees, *Piloting Principles for Effective Company-Stakeholder Grievance Mechanisms: A Report of Lessons Learned* (CSR Initiative, Harvard Kennedy School, Cambridge, 2011), available from http://www.hks.harvard.edu/m-rcbg/CSRI/publications/report_46_GM_pilots.pdf.

specific contexts and tracking performance over time. The Working Group intends to revisit its guidance on national action plans with the issue of measurement in mind.

72. The first national action plans did not include baseline assessments or comprehensive sets of benchmarks or indicators.[60] At the time of reporting, however, a number of national action plan processes were under way that placed a stronger emphasis on measurement and benchmarking, including in Chile, Germany, Scotland (United Kingdom of Great Britain and Northern Ireland), South Africa and Zambia, amongst others.[61] The Working Group commends that good practice but also acknowledges that, in low-resource and low-capacity contexts, initial comprehensive baselines may not be realistic. In such contexts, a focus on known, salient issues as a starting point may be a better strategy.

73. In the view of the Working Group, national action plans are a means, not an end. National action plans can be viewed as a continuous process of improvement for States. For national action plans processes to be effective, they must be regularly reviewed and updated, with inbuilt monitoring mechanisms. In addition, the process by which they are carried out, that is one that includes comprehensive mapping of State duties and extensive stakeholder consultation, is just as important as the final product. The Working Group encourages States to view national action plans as a tool for continuous improvement and to carry them out with inclusion and comprehensiveness in mind.

B. Continuing the translation of the Guiding Principles on Business and Human Rights into measurable elements

74. As stressed by the former Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, the endorsement of the Guiding Principles marked the end of the beginning by establishing a common global platform for action, on which cumulative progress can be built, step-by-step (A/HRC/17/31, para. 13). The Working Group believes that it is essential in the field of business and human rights and, more broadly, for the international community to work towards convergence on how to measure the implementation of the Guiding Principles. While the Working Group does not prescribe the final form of such an initiative, it believes that taking concrete actions towards consensus is of the utmost importance.

75. As shown in the present report, work to identify measurable elements of the Guiding Principles is already under way, particularly on pillar 2, as evidenced by tools and guidance such as the Human Rights Compliance Assessment of the Danish Institute for Human Rights and the UN Guiding Principles Reporting Framework (see sect. II. B). The Corporate Human Rights Benchmark project is also likely to offer further guidance when it is finalized.

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[60] International Corporate Accountability Roundtable and European Coalition for Corporate Justice (ECCJ), *Assessments of Existing National Action Plans (NAPs) on Business and Human Rights* (November 2014), available from http://icar.ngo/wp-content/uploads/2014/10/ICAR-ECCJ-Assessments-of-Existing-NAPs.pdf.

[61] http://business-humanrights.org/en/un-guiding-principles/implementation-tools-examples/implementation-by-governments/by-type-of-initiative/national-action-plans.

76. Some work has also been undertaken to measure the implementation of pillar 1, in particular the efforts to produce guidance on national action plans, such as those by the Danish Institute for Human Rights and the International Corporate Accountability Roundtable (the structure of the National Baseline Assessment Template mirrors that of the Guiding Principles), and by the Working Group (annex III to its *Guidance on National Actions Plans on Business and Human Rights* provides a list of potential elements for informing development of pillar-1 and -3 indicators) and surveys of States.[62]

77. The need for interpreting the Guiding Principles into measurable elements reflects common approaches in other fields. The OHCHR human rights indicator framework discussed in the present report, for example, identifies attributes of human rights and breaks them into indicators. As an illustration, the right to work (article 23 of the Universal Declaration of Human Rights) is broken down into the following attributes: access to decent and productive work; just and safe working conditions; training, skill upgrading and professional development; and protection from forced labour and unemployment.[63] Indicators include the incidence of occupational accidents and the ratio of women's to men's wages. The Working Group does not advocate that the exact same approach should be taken in the field of business and human rights or that it should end with exactly the same output as the OHCHR human rights indicator framework, but it does argue that such work is both vital and achievable.

78. The Working Group supports initiatives that extend measurement frameworks to new data sources, purposes and constituencies. Initiatives to translate the Guiding Principles into indicators for investors or industry sectors, for example, will significantly contribute to uptake and dissemination. Given the lack of initiatives specific to pillar 3, the Working Group also welcomes earnest attempts to measure the effectiveness of company and State remedy efforts. There is also a need to look across industries and regions to track how specific human rights challenges, such as forced labour or land-related rights, are being addressed.

79. The Working Group also sees the need at the global level. Success in implementing the Guiding Principles requires international coordination and collaboration to assess the outcome of the successful implementation of the Guiding Principles and how such implementation is measured. While it is acknowledged that those efforts will always be context-specific, one must determine at least the parameters for that information. At present, what is lacking is not only global measurement systems for the Guiding Principles, but even the criteria for establishing them. Such a process is worth exploring.

80. Any such attempt requires a coordinated effort, and the Working Group reiterates its call that the determination of what and how to measure must be made with the participation of actors across stakeholder, geographical and political divides. One initiative worth flagging in that respect follows up on a suggestion made at the third Forum on Business and Human Rights, held in December 2014 and chaired by Mo Ibrahim, Founder and Chairman of the Mo Ibrahim Foundation,

[62] See also Damiano de Felice and Andreas Graf, "The Potential of National Action Plans to Implement Human Rights Norms: An Early Assessment with Respect to the UN Guiding Principles on Business and Human Rights" (2015), available from http://jhrp.oxfordjournals.org/content/7/1/40.

[63] See OHCHR, *Human Rights Indicators*, p. 95.

to initiate a process to measure the implementation of the Guiding Principles in each State across the globe, with indicators relating to the three pillars.

C. Embedding the Guiding Principles on Business and Human Rights in existing measurement frameworks

81. Section II of the present report lists a number of measurement initiatives that do not specifically focus on the Guiding Principles and yet are highly relevant to the issue of State and company performance on human rights. Many of those initiatives could strengthen their inclusion of Guiding Principles-related criteria.

82. The first category of initiatives in which Guiding Principles indicators could be embedded is environmental, social and governance investment. Investors have particular leverage over the companies in which they invest. Currently, most environmental, social and governance measurement frameworks rely on self-reporting by companies and only measure commitment. A number of investor initiatives already integrate human rights under the "social" pillar of environmental, social and governance evaluation but, as many actors have pointed out, those methodologies do not always capture meaningful human rights data.

83. Second, many international human rights treaties have implications with respect to regulating and adjudicating corporate harm, many of which are reflected in the Guiding Principles. Reporting to treaty bodies or under the universal periodic review provides an opportunity for States to report on the implementation of the Guiding Principles and for treaty bodies and other States to monitor those efforts. Business and human rights questions should not be left to the Working Group alone but should be mainstreamed through the entire United Nations human rights machinery. The Working Group has already engaged with a number of treaty bodies and special procedures mandate holders to discuss linkages between the Guiding Principles and other treaties and supports initiatives to integrate the Guiding Principles into treaty bodies and the work of special procedures mandate holders.

84. Third, at the global level, the sustainable development goals provide significant opportunities. As a new global framework, the goals will shape the future development agenda for both States and companies. The goals are already focused on indicators and measuring and are likely to generate data relevant to business and human rights through the work of the official statistics agencies and the implementation of national plans. The private sector is expected to play a key role in the achievement of the goals, and the Working Group welcomes the emphasis placed on their role.[64] However, the private sector's substantial role must be matched with equally substantial accountability. In the view of the Working Group, the Guiding Principles must drive the implementation of the goals, including the setting of concrete targets and indicators.[65]

[64] The Working Group raised those points in a letter to the lead negotiators in July 2015, available from www.ohchr.org/EN/Issues/Business/Pages/2015Activities.aspx. See also A/HRC/29/28.

[65] Efforts are under way to help companies to set goals and measure impact on contributions to the sustainable development goals. See www.sdgcompass.org.

V. Conclusion and recommendations

85. In the present report, the Working Group has argued that measuring the implementation of the Guiding Principles on Business and Human Rights is a task of paramount importance in the field of business and human rights and, more generally, to the international community. That is clearly a priority for the Working Group. Measurement will be a priority theme at the fourth Forum on Business and Human Rights, in November 2015.[66] In addition, the Working Group intends to keep abreast of discussions and developments in that field to highlight the benefits of measurement and work towards convergence.

86. A review of existing measuring and tracking initiatives relating to the Guiding Principles has highlighted the diversity of many of those initiatives and methodologies and their potential to offer relevant data on the Guiding Principles and to measure the implementation thereof. It has also shown gaps in coverage.

87. Many existing initiatives focus overwhelmingly on the commitments of companies and States to implementing the Guiding Principles and, to some extent, on the processes needed to implement them. While commitments and the establishment of processes and systems constitute critical steps towards protecting individuals and communities against human rights abuses by business enterprises, they do not reflect whether those abuses are being reduced in practice. Any meaningful effort to measure the implementation of the Guiding Principles must include the consequences of State and company policies and processes, not only their intention.

88. The Working Group also notes that pillar 3 (access to remedy) of the Guiding Principles lacks measurement initiatives relative to the other two pillars. Research in the field of business and human rights lacks comprehensive data on the number and nature of complaints against companies for their adverse impacts and the effectiveness of the bodies tasked with investigating and remediating those impacts. State and company remedy mechanisms are not only vital bodies in themselves, but also provide information that will inform broader efforts to measure the implementation of the Guiding Principles.

89. The Working Group stresses that what must be measured is what is meaningful to know, not what is easiest to measure. This requires inclusive processes to design measurement initiatives and criteria, as well as an appropriate mix of qualitative and quantitative approaches, taking into account assessments by affected individuals and communities themselves. While some topic areas offer more available data than others, they should not distract from the comprehensive and universal nature of the Guiding Principles.

90. The Working Group concludes its report by making specific recommendations addressing the lessons learned and strategic areas discussed therein. It hopes that those recommendations will provide the needed impetus for a more robust, consolidated and global approach to measuring the implementation of the Guiding Principles.

[66] www.ohchr.org/EN/Issues/Business/Forum/Pages/2015ForumBHR.aspx.

91. **Recommendations to States:**

(a) **States should track their efforts to meet their duty to protect human rights in the context of business activities, including ensuring access to effective remedy. In addition, States should monitor whether businesses are meeting the responsibility to respect human rights in their national contexts;**

(b) **Given that national action plans on business and human rights, including national baseline assessments, provide an important avenue for tracking progress, States are encouraged to develop national action plans that include national baseline assessments, and to use them as part of a continuous process of improvement;**

(c) **States should encourage and give incentives to improved human rights reporting and consider where mandatory reporting could help to advance corporate practices. The UN Guiding Principles Reporting Framework offers an opportunity for convergence around a tool that is based directly on the Guiding Principles;**

(d) **States should ensure that the Guiding Principles are taken into account in the post-2015 development framework and serve as a reference for both global and national efforts to implement the sustainable development goals, including when developing and implementing targets and indicators. In particular, requirements in the post-2015 development framework with regard to sustainability reporting should include robust indicators and data, including on human rights. In doing so, States should increase their own capacity to implement, monitor and enforce any requirements for corporate reporting;**

(e) **States should support present and future efforts to track State progress on the Guiding Principles by making relevant data available. That includes reporting on their commitment to and implementation of the Guiding Principles in their reports to treaty bodies and as part of the universal periodic review. It also applies to the survey questionnaires sent by the Working Group to map progress and practices both generally and with regard to specific policy areas. While mindful of the capacity constraints of many Governments, providing data and information to civil society mapping efforts, such as the Government Action Platform by the Business and Human Rights Resource Centre, would support the goal of measuring overall progress;**

(f) **To strengthen their own efforts to track progress on human rights performance by Governments at the international level, States should systematically ask questions on the implementation of the Guiding Principles in the context of the universal periodic review and call for measuring tools and indicators, including human rights indicators based on the OHCHR framework and relating to businesses, in the context of the implementation of the recommendations stemming from the review.**

92. **Recommendations to business enterprises:**

(a) **Industry associations, business federations and associations are well placed to use their convening power and leverage to initiate the uptake of the Guiding Principles among their members and, in cooperation with relevant stakeholders, to address the measuring and tracking challenges relating to the Guiding Principles;**

(b) As businesses increasingly develop and implement processes to embed their responsibility to respect human rights, they should also develop and implement adequate systems to track their impacts on human rights and the effectiveness of addressing those impacts, with respect to their supply chains as well as their own operations;

(c) Initiatives already tracking performance of companies on environment, social and governance performance offer significant opportunities for increasing business awareness of and action on the corporate responsibility to respect human rights. Such initiatives should align with the Guiding Principles and include indicators based on the key elements of the corporate responsibility to respect human rights;

(d) Actors such as the "big four" auditing firms and other enterprises involved in assuring non-financial reporting of companies should proactively encourage their clients to know and show how they are meeting the responsibility to respect human rights. Efforts to develop guidance for assuring human rights reporting in line with the Guiding Principles should be supported by leading assurance providers and professional bodies to ensure that companies are met with consistent expectations based on agreed international standards;

(e) The International Accounting Standards Board, the national accounting standards boards and the International Integrated Reporting Council, as appropriate, should refine their approaches in the field of triple bottom line accounting and require more sophisticated techniques to meet the requirements set in the Guiding Principles and the expectations of communities, shareholders, consumers and others on responsible business practices.

93. Recommendations to international organizations, civil society and academics:

(a) International and non-governmental organizations and academics engaged in measurement initiatives should increase attention to the development of measurement methodologies focused on human rights claims. It is crucial to gather the best available data on claims of human rights abuses, as it is difficult to know whether policies or processes adopted by States and companies ultimately reduce abuses without a baseline assessment about claims;

(b) Similarly, more attention should be paid to developing methodologies and obtaining data relevant to the implementation of pillar 3 (access to remedy). Obtaining data relevant to the implementation of pillar 3 is not only important in itself, it is also important to understand whether progress can be associated with the measures taken under pillars 1 and 2. Part of the value of the Guiding Principles lies in their comprehensive coverage of corporate impacts. Thus, measuring and tracking must take place across all three pillars to fully comprehend the level of their implementation;

(c) Greater coordination among organizations developing measuring and tracking tools is necessary to work towards greater convergence and standardization around what is to be measured. That applies to all relevant initiatives, including national action plans, reporting, tracking systems on the responsibility to respect human rights and impact assessment methodologies.

94. **Recommendations to national human rights institutions:**

(a) **National human rights institutions should monitor, assess, and compile data on how States in their national contexts meet their duty to protect human rights from business-related harm, and how companies are meeting their responsibility to respect human rights;**

(b) **National human rights institutions should also compile and provide public data on the business-related human rights claims that they receive and address.**

95. **Recommendations to the human rights system of the United Nations:**

(a) **Treaty bodies and special procedures mandate holders should consider asking questions specific to the implementation of the Guiding Principles more systematically, in particular with respect to access to remedy for business-related harm, when monitoring treaty implementation, processing complaints and communications, and engaging with States in the reporting cycle or during country missions;**

(b) **Treaty bodies should also consider including core elements of the Guiding Principles in their reporting guidelines;**

(c) **The Office of the United Nations High Commissioner for Human Rights should support States, treaty bodies and special procedures mandate holders in developing human rights indicators relating specifically to business and the Guiding Principles, applied to various rights and sectors and across the three pillars of the Guiding Principles.**